

Sentence Review Division
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SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
STATE OF MONTANA

AUG 14 2020

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,

Plaintiff,

-vs-

PRESTON LEO STEWART,

Defendant.

) Cause No. DC-19-656

)

) Yellowstone County District Court

) Montana Thirteenth Judicial District

)

) **DECISION**

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On March 23, 2020, the Defendant was sentenced as follows: Count I: Five (5) year commitment to the Department of Corrections, for the offense of Driving a Motor Vehicle Under the Influence of Alcohol or Drugs, a Felony, to run consecutively to any other sentence. Defendant was ordered to pay a fine of \$10,000.00 to be credited to the General Fund, to run consecutively to any other sentence of separate DC Dockets (including DC-13-0561 and DC-15-0494). The Court recommended a Montana State Prison override placement by the Department of Corrections. Count III: Six (6) months commitment to the Yellowstone County Detention Facility, and a \$500.00 fine, to run concurrently with Count I, for the offense of Criminal Endangerment, a Misdemeanor; Count IV: Six (6) months commitment to the Yellowstone County Detention Facility, and a \$500.00 fine, to run concurrently with Counts I and III, for the offense of Theft, 2nd Offense, a Misdemeanor; Count V: Six (6) months commitment to the Yellowstone County Detention Facility, and a \$2,000.00 fine, to run concurrently with Counts I, III, and IV, for the offense of Driving While Privilege to Do So is Suspended or Revoked, a Misdemeanor; and Count VI: Six (6) months commitment to the Yellowstone County Detention Facility, and a \$500.00 fine, to run concurrently with Counts I, III, IV, and V, for the offense of Driving Without Required Motor Vehicle Insurance, a Misdemeanor.

The Defendant was given credit for time spent in pre-trial incarceration from May 28, 2019 through March 23, 2020 and was ordered to pay restitution in the amount of \$93.75.

On August 6, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by video from the Yellowstone County Detention Facility, and was represented by Dan Biddulph, Defense Counsel, who appeared by video from Missoula, Montana. The State was represented by Brett Linneweber, Yellowstone County Deputy Attorney, who appeared by video from Billings, Montana. The Defendant gave a statement.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 6th day of August, 2020.

DATED this 14th day of August, 2020.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chairperson



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 14th day of August, 2020, to:

Clerk of District Court – *via email*

Preston Leo Stewart #3014637, Defendant

Hon. Gregory Todd – *via email*

Dan Biddulph, Defense Counsel – *via email*

State Office of the Public Defender – *via email*

Brett Linneweber, Esq. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division